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5 UNITED STATES DISTRICT COURT
6 DISTRICT OF NEVADA

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8 JOE RABB,)
9 Plaintiff,) 2:10-CR-00698-PMP-PAL
10 vs.)
11 GATOR MACHINERY COMPANY,)
12 INC., a foreign corporation; COSCO)
13 CONTAINER LINES AMERICAS,)
14 INC., a foreign corporation,)
Defendants.)

)

ORDER

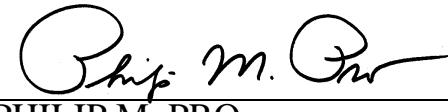
15 On December 28, 2010, the Court entered an Order (Doc. #39) granting
16 Gator Machinery Inc.'s Renewed Motion to Dismiss Plaintiff's Second Amended
17 Complaint (Doc. #25) and denying Plaintiff's Counter Motion to Amend/Correct
18 Complaint (Doc. #31). Additionally, the Court denied Defendant COSCO Container
19 Lines Americas Inc.'s Joinder in Defendant Gator's Motion to Dismiss to the extent
20 it sought dismissal based upon lack of jurisdiction.

21 Recently, however, it has been brought to the attention of the Court by a
22 letter filed on behalf of Defendant COSCO that the Court's Order (Doc. #39) did not
23 address Defendant COSCO's alternate basis for dismissal pursuant to Rule 12(b)(6)
24 of the Federal Rules of Civil Procedure. Defendant COSCO is correct, and the Court
25 has now had the opportunity to revisit the motion to address this latter aspect of
26 Defendant COSCO's motion. Having done so, the Court finds that Plaintiff has

1 in his Complaint sufficiently stated plausible claims for Negligence, Negligence Per
2 Se and Strict Liability.

3 **IT IS THEREFORE ORDERED that** Defendant COSCO's Motion to
4 Dismiss Plaintiff's Complaint for Failure to State a Claim Pursuant Rule 12(b)(6) of
5 the Federal Rules of Civil Procedure (Doc. #32) is **DENIED**.

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7 DATED: February 23, 2011.

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10 PHILIP M. PRO
United States District Judge

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